

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MS. JUSTICE P.T.ASHA

H.C.P.NO.2609 OF 2019

R.Malarkodi

...Petitioner

-vs-

1. The Secretary of Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Police,
Salem.

...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner's son Thiru.Santhoshkumar, Son of Ramesh, Male, aged about 23 years is presently lodged in Central Prison at Salem and has been detained under Act 14/82 as a Goonda vide detention order dated 24.10.2019 on the file of the second respondent herein made in Memo C.M.P.No.41/Goonda/Salem City/2019 quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from the Central Prison, Salem.

For Petitioner .. Mr.E.C.Ramesh
For Respondents .. Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the mother of the detenu Santhoshkumar, Son of Ramesh, Male, aged about 23 years. The detenu has been detained by the second respondent by his order in C.M.P.No.41/Goonda/Salem City/2019 dated 24.10.2019, holding him to be a "Goonda", as contemplated under Section 2(f) of the

Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the bail order at Page No.128 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.41/Goonda/Salem City/2019 dated 24.10.2019, passed by the second respondent is set aside. The detenu, namely, Santhoshkumar, Son of Ramesh, Male, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CO)MDU

//True Copy//

Sub Assistant Registrar

mmi/ms

To

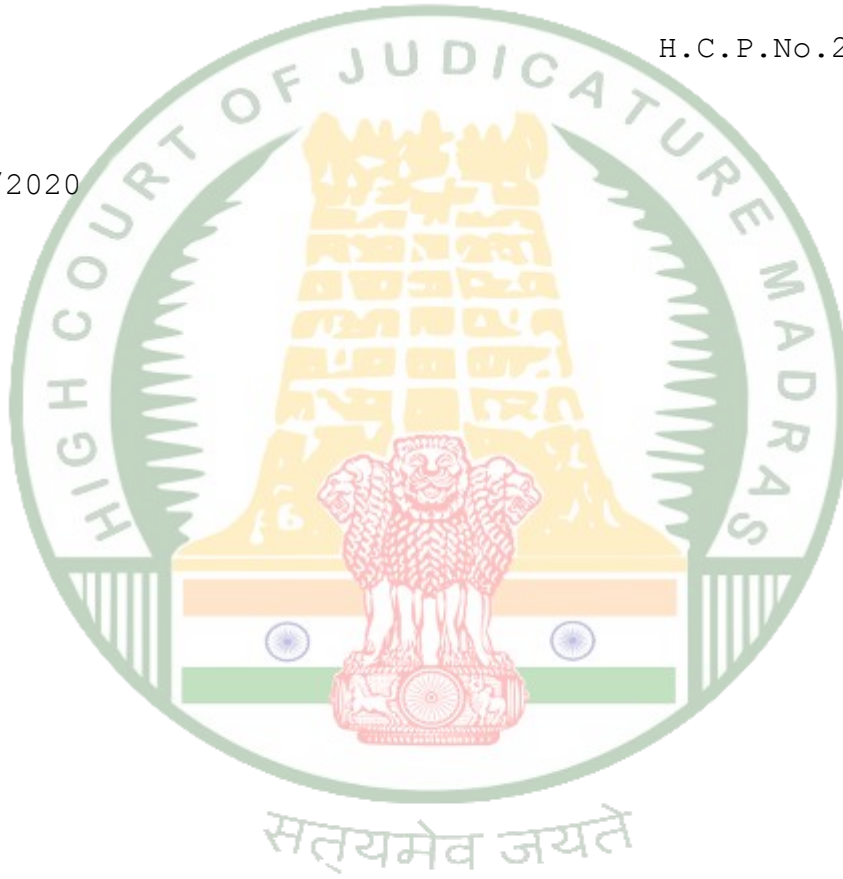
1. The Secretary of Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Salem.

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3. The Superintendent,
Central Prison, Salem.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,
Chennai.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2609 of 2019

SR(CO)
KKV/17/07/2020



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